IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

WEDNESDAY, THE 19TH SEPTEMBER 2007 / 28TH BHADRA 1929

LA.App..No. 999 of 2005(D)

LAR.122/1999 of PRL.SUB COURT, KOZHIKODE
.....

APPELLANT:

THE SPECIAL TAHSILDAR,
L.A., KOZHIKODE.

BY GOVERNMENT PLEADER SMT.K.R.DEEPA

RESPONDENTS:

T.V.MANOHARAN, THAZHUVELUTHEDATH,
ERANHIKKAL, PUTHUR DESOM, ELATHUR VILLAGE.

BY ADV. SRI.E.NARAYANAN

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 19/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & HARUN-UL-RASHID, JJ.

L.A.A.No.999 of 2005

Dated this the 19th day of September, 2007

JUDGMENT

Kurian Joseph,J.

This appeal is filed against the judgment and decree in L.A.R.No.122/1999 on the file of the Sub Court, Kozhikode. The acquisition is for the purpose of construction of bridge and approach road across E.K.Canal. The section 4(1) notification is dated 15-11-1994. Though the claimant heavily relied on Ext.A2 judgment in L.A.R.No.70/1998, the reference court has rightly declined to accede to the request on the ground that there is no evidence to establish that the property covered by Ext.A2 is similar and similarly situated as the acquired property. True, Ext.A2 also pertains to the acquisition for the very same purpose and covered by the notification dated 15-2-1994. The claimant had taken out a Commission and according to the Advocate Commissioner the property can be valued between Rs.20,000/- and Rs.30,000/- per cent at the time of acquisition. The claimant did not have any objection on the Commission report. In such

circumstances the reference court, taking note of the importance of the locality, fixed the market value at Rs.20,000/- per cent. It is to be noted that the property is situated within 2 kms. away from the National Highway and the P.W.D. road leading to Kuttiadi passes through the boundary of the acquired property. There are important institutions like Bank, schools, post office etc. situated nearby. The claimant had in fact claimed for Rs.75,000/- per cent. It is also to be noted that there is no evidence for the respondent to upset the evidence of the Advocate Commissioner. In such circumstances we are of the view that the value fixed by the reference court at the rate of Rs.20,000/- per cent is just and proper. Thus, there is no merit in the appeal. It is accordingly dismissed.

(KURIAN JOSEPH, JUDGE)

(HARUN-UL-RASHID, JUDGE)

ahg.